

treated unfairly when Republicans were in power in the Senate and President Clinton was the President.

Only one judge was defeated on the floor of the Senate, and I do not think any were defeated in the committee, as Judge Pickering was today. But there were some judges who did not get a hearing. Maybe there were too many. But I think that it is quite unfair to try to dream up reasons to vote against somebody if the real reason is that you do not like what happened to some of President Clinton's nominees. That is not right.

We talk about the cycle of violence in the Middle East and say we have to stop it. Yet some people apparently are willing to maintain a different kind of cycle of retribution in the Senate.

I think what it boils down to is a matter of philosophy. I think, if people are honest with themselves, a lot of this boils down to the fact that some members of the majority are uncomfortable supporting a conservative nominated by President Bush. And some on the committee have been courageous enough to, in fact, say that.

One of the Senators from the majority this morning said: Look, I think that he's out of the mainstream. I think that President Bush is nominating waves of conservative ideologues, and that offends my sense of what is proper, and, therefore, I am going to vote against that kind of nominee.

That is an honest statement, at least, even though I think it is very wrong. But I think that really is the reason why a lot of people decided not to support this nominee. And the question is, A, are they right? And, B, is that right?

Well, are they right? I do not doubt that Judge Pickering may be characterized as a conservative, but he has been on the Federal bench for a long time, and I have not seen anybody say that his decisions reflected some kind of conservative bias. Moreover, one man's conservative is another man's mainstreamer, or however you want to characterize it.

I think we get on a slippery slope when a Senator from New York says, for example: Why, those candidates are outside the mainstream. They are conservative ideologues. I say: Gosh, they look pretty good to me. Of course, I am a conservative from Arizona. So it is all in the eye of the beholder. The question is, Who got elected as President of the United States?

I remember when Al Gore said in one of the debates with George Bush: You don't want to elect George Bush because, if he gets elected, he will nominate conservatives to the bench. Everybody in the country knows that whoever is elected President is going to nominate people they like to the bench.

President Clinton nominated a lot of people I thought were pretty liberal. I did not vote for all of them, but I voted for a lot of them because they were qualified, I had to admit. But I thought

they were liberal. They were liberal. And I did not like that. And they have added to liberal courts. But, again, he was elected President, not me. I am a conservative from Arizona.

You can characterize President Clinton however you want to characterize him. He had the right to nominate candidates of his choice because he got elected by the whole country. And so did George Bush.

I daresay that George Bush probably is a better representative of the mainstream of America than a lot of individual Senators in this body who are answerable to specific constituencies in Arizona or New York or New Jersey or Minnesota or whatever State it might be. Therefore, I think it is wrong for any of us to have a litmus test of politics determining our vote for judges on the courts. I think if they are qualified, if the ABA says they are qualified, if we acknowledge they are qualified, then we should not be voting against them just because of their judicial philosophy.

That brings me to the conclusion here.

When I saw the distinguished minority leader express himself tonight, after his fellow Mississippian had been defeated in the Senate committee, and he offered his sense of the Senate, I admired Senator LOTT because what he was saying, in effect, was: I am not going to forget this personally. But it is time to move on and stop this business of retribution, this business of saying Clinton judges were treated unfairly, so, therefore, we are justified in doing the same to President Bush's nominations.

What TRENT LOTT was saying was let's move on. Let's stop this nonsense. And the way we can do it is to begin to deal with the backlog of circuit court nominees that we face today. And he pointed out the statistics. Only one of the nine nominees of just about a year ago—on May 9—have even had a hearing. There is no excuse for that. There is absolutely no reason that all nine of these candidates could not have had a hearing.

Judge Pickering is only one. The other eight have not had hearings. Miguel Estrada, for example: No hearing. He is right here. There is no problem. He can have a hearing. But it is going to be a year before he can even conceivably have a hearing now. There is clearly something wrong when that is the situation.

So what Senator LOTT said was let's have a sense of the Senate and agree as a Senate that at least those eight nominees of May 9, 2001, should have a hearing by May 9, 2002; that is not too much to ask; and it isn't. So I hope all of my colleagues will join us in supporting it.

Now, that does not guarantee it, but it expresses the sense of the Senate that we ought to do it. I think that is a good way for us to begin to put some of this acrimony behind us.

I remain disappointed about Judge Pickering. I am resigned to the fact

that he is not going to be, at least for now, confirmed to the circuit court. But I do think we can learn from this exercise, adopt Senator LOTT's resolution, agree to hold hearings on these judges, and then, of course, follow through with action by the committee and then action by the full Senate.

The statistics are such that in order for this Senate to confirm the same number of judges that were confirmed for President Reagan, the first President Bush, and President Clinton, in their first 2 years of office—the measure for the end of this current year—we would have to hold a hearing every single week—we, the Senate Judiciary Committee, of which I am a member—that we are in session until the end of this year, with five district court judges and one circuit court judge per hearing.

We would have to do that every single week. And the committee would have to vote on five district court nominees and one circuit court nominee. The full Senate would have to vote on five district court nominees and one circuit court nominee every single week. That is just for us to confirm the same number of judges for President Bush, the second, as we confirmed for his father and for President Clinton and for President Reagan.

Obviously, we have dug ourselves a big hole. We have to start to get out of this hole. An old rancher friend of mine once said: If you're in a hole and want to get out, the first thing you want to do is stop digging.

We have to stop the delay and the re-creation and get on to confirming qualified judges. The best way to do that is to commit to holding hearings and having the Judiciary Committee vote on those nominees. If they vote a nominee down, all right, but let's make sure it is on the qualifications and not some excuse. Then bring those nominees who are supported to the floor so the full Senate can act on them as a body.

I support Senator LOTT's resolution. I hope my colleagues will do so when we have a chance to vote on it, perhaps Tuesday, so we can move beyond the kind of actions that I believe characterize Judge Pickering's rejection today. I hope this is the last time we will have to have a conversation such as this.

I appreciate the Presiding Officer's patience.

APPEAL IN THE LOCKERBIE CASE

Mr. KENNEDY. Mr. President, today justice was shining as the Scottish court in the Netherlands upheld the conviction of Libyan intelligence officer Abdel Basset al-Megrahi for the terrorist bombing of Pan Am flight 103 over Lockerbie, Scotland on December 21, 1988.

In this heinous crime, Libyan terrorists blew up Pan Am flight 103, ruthlessly murdering 270 innocent people, including 189 Americans. Until the September 11 terrorist attack, the Pan Am

case was the most fatal terrorist atrocity in American history.

Since 1989, our Nation has joined the victims' families to bring the terrorists to justice and to compel the Libyan Government to acknowledge its responsibility for this terrible act. Today, after more than 13 years, a measure of justice has finally been achieved.

This verdict by the Scottish court is a victory for the families of the victims who have been tireless advocates for justice. Thirteen families from Massachusetts lost loved ones in the Pan Am flight 103 attack. Over these 13 difficult years, we have worked with them and the other families to bring about today's verdict.

From the outset, the families of the victims have translated their grief into action. They stood up to powerful interests of the oil industry, and they have kept the prosecution of those responsible for the death of their loved ones at the top of our Nation's agenda. This trial and this verdict would not have happened without their impressive and ongoing efforts.

Discussions between the American, British, and Libyan Governments regarding compliance with outstanding U.N. Security Council resolutions are underway in London.

Now that the legal case has run its course, diplomatic efforts will intensify to ensure that the Government of Libya fully and satisfactorily complies with Security Council resolutions before sanctions can be permanently lifted.

In Security Council Resolution 748, the United Nations required the Libyan Government to comply with requests addressed to Libyan authorities by the governments of France, the United Kingdom, and the United States. One of those requests clearly states that the British and American governments expect the Government of Libya to "accept complete responsibility for the actions of Libyan officials."

This requirement must be fulfilled completely, totally, and unequivocally. The United States Government has consistently maintained that the Libyan Government carried out this atrocity. Indeed, when two Libyan intelligence officials were indicted in 1991, State Department spokesman Richard Boucher said: "This was a Libyan Government operation from start to finish. The bombing of Pan Am 103 was not a rogue operation."

Although the explosion did not take place on American soil, America was clearly the target of this attack. The Scottish court concluded that Libya was responsible for the bombing, and the Libyan regime must accept that responsibility as well. As the London discussions proceed between our government, the British Government and the Libyan Government the U.S. must make it crystal clear that we will accept nothing short of an explicit acceptance of responsibility by Qadhafi's government to satisfy this condition.

Security Council Resolution 748 also requires the Libyan Government to

"disclose all it knows of this crime, including the names of all those responsible." The head of Libyan intelligence, Musa Kusa, has been participating in the trilateral discussions in London. At the time of the Pan Am bombing, Musa Kusa was the Deputy Chief of Intelligence, working under colonel Qadhafi's brother-in-law, and he should be able to provide a significant amount of information to satisfy this condition. I expect that the U.S. Government is asking Musa Kusa to provide this information with the goal of fulfilling this requirement.

Another clear requirement of Security Council Resolution 748 calls on the Libyan Government to "pay appropriate compensation." Discussions are underway between private attorneys and the representatives of the Libyan Government to address this condition. I am aware that the State Department is not directly involved in these negotiations. However, our government must ensure that any financial agreement is not considered a substitute for acceptance of responsibility accompanies the financial agreement.

Finally, the Security Council Resolution calls on the Government of Libya to "commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and promptly, by concrete actions, demonstrate its renunciation of terrorism." Libya has in the past supported, trained, and harbored some of the most notorious terrorist groups in the world. Our Government must be convinced, beyond a doubt, that Libya has abandoned all support for terrorism before concluding that this requirement has been satisfied.

The Congress has consistently stated its view that the Libyan Government must fulfill all Security Council resolutions related to the Pan Am 103 bombing, most recently when it overwhelmingly approved a five-year extension of sanctions in the Iran Libya Sanctions Act.

I know the administration is working diligently on this matter, and I look forward to full and satisfactory compliance with Security Council resolutions. These brave families deserve no less.

Mr. President, this tragedy took place 13 years ago. It is instructive for all of us to understand that the only way we are going to be able to deal with terrorists is by developing the kind of hard-edge determination, resolution, persistence in pursuing justice that this case has followed over 13 years.

Too often, with the kinds of challenges we are facing, we find out that there is a flurry of activity, and then we find other forces come to bear to try to override the underlying issues which are basically at stake. We have seen the powerful interests of the oil industry trying to push aside the sanctions which we have had in effect. We have seen powerful interests in Europe as well try to discount these sanctions.

It is only because the United States has been resolute, determined, and per-

sistent over the period of 13 years, both in the area of sanctions as well as pursuing this in the international courts, that we have the judgment as we have seen today. That judgment is extremely clear in pointing out responsibility to the world. The Scottish court is pointing the world to the cause of the terrorism which took 13 families from my State, 67 members of the U.S. Armed Forces, and scores of other Americans. This is a victory for those families.

It is a very important step that has been taken. It is a reaffirmation in our system of justice, and it is a clear indication to countries around the world that the United States is going to be consistent and persistent to bring those who have created terror to justice, no matter how long it takes.

APPLAUDING THE JUSTICE DEPARTMENT FOR THEIR LEADERSHIP IN THE LAWSUIT AGAINST THE TOBACCO INDUSTRY

Mr. DURBIN. Mr. President, about 13 years ago I went to get on an airplane in Phoenix, AZ. I was a Member of Congress. I was late for my plane, as usual. I came running into the airport, went to the United ticket counter, and said: Can I still make the plane? And the lady at the counter said: Yes, I think you can. Hurry up. I said: Can you get me a seat in the nonsmoking section of the plane? It was too late. She said: The only seat I have left is a middle seat in the smoking section of the plane. So I said to her: Isn't there something you can do? She looked down at my airline ticket and at my title and said: No, Congressman. But there is something you can do.

So I got on that airplane and sat in a middle seat in the smoking section between two chain-smoking sumo wrestlers and thought to myself: There has to be a better way.

When I got off that plane, I decided to offer an amendment to ban smoking on airplanes across America, and was successful, to the surprise of myself and everybody else. No one had ever beaten the tobacco lobby on the floor of the House of Representatives. We did it by five votes. It was very bipartisan. It came over to the Senate. Senator Lautenberg of New Jersey picked up the cause. He was successful on this side. We put into law a ban on smoking on airplanes, which I think was the domino that triggered smoking being banned all across America, in restaurants, in office buildings, in hospitals, and not only on planes, but on trains and buses. There has been a real revolution in just 13 years.

But the battle against the tobacco companies goes on. I give credit to a lot of those who followed after that historic legislation, particularly the State attorneys general who filed lawsuits against tobacco companies and successfully brought in billions of dollars to States because of the fraud perpetrated on the public by the tobacco industry.